



August 7, 2000

Mr. Javier Gonzalez
Lieutenant
City of Pharr Police Department
202 East Clark
Pharr, Texas 78577

OR2000-2986

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138023.

The City of Pharr Police Department (the "department") received a request for an "office/arrest report." You indicate that the information that is responsive to the request is the offense report for case number 99-006545 and related correspondence, which you have submitted for our review. You assert that this information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

In relevant part, section 552.108 provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

...

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108(a)(2), (c). In support of the applicability of section 552.108, you assert only subsection 552.108(a)(2), and you state only that "two of the defendants were no billed by the Grand Jury[.]" We note, however, that the submitted documents all pertain to a single incident and indicate a third suspect was also arrested. Further, the documents indicate that the third suspect received a five year sentence. Because one of the three suspects was sentenced, we must assume that the sentence was the result of either a conviction or a finding of deferred adjudication. We therefore do not agree that the submitted information constitutes information "that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Accordingly, the department may not withhold the information pursuant to subsection 552.108(a)(2). Because you make no additional arguments or representations with reference to the section 552.108 claim, we additionally conclude that the information is not excepted from disclosure under section 552.108.¹

We note, however, that the submitted documents contain a driver's license number and vehicle license plate information which the department must withhold. Section 552.130 of the Government Code excepts information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. We have marked the information that you must withhold under section 552.130.² Other than the information we have marked for redaction, we conclude the department must release the submitted documents to the requestor in their entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

¹Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). According to the submitted information, both the investigation and prosecution of the matter have concluded. You neither assert nor do you argue the applicability of subsections 552.108(a)(1) or (b)(1) to any of the information at issue. We thus have no basis for finding that the release of any of the submitted information at this time would interfere with law enforcement. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978).

²We note that we have not marked for redaction the driver's license number of the requestor. We also have not marked for redaction the social security number of the requestor, although this information may be confidential with respect to the public. *See* Open Records Decision No. 622 (1994). We believe the requestor has a special right of access to this information, beyond the right of the general public, pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023.

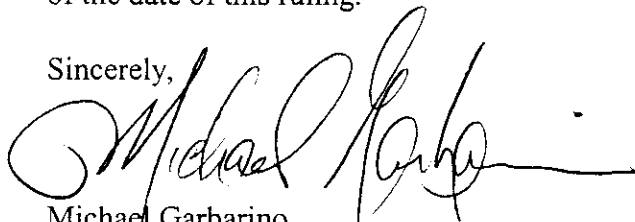
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", with a long horizontal flourish extending to the right.

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/pr

Ref: ID# 138023

Encl. Submitted documents

cc: Mr. Jose Garcia, Jr.
1014 East Alan
Pharr, Texas 78577
(w/o enclosures)